

STATE OF NEW MEXICO  
ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT  
OIL CONSERVATION COMMISSION

APPLICATION OF THE NEW MEXICO OIL AND GAS ASSOCIATION FOR AMENDMENT OF CERTAIN PROVISIONS OF TITLE 19, CHAPTER 15 OF THE NEW MEXICO ADMINISTRATIVE CODE CONCERNING PITS, CLOSED-LOOP SYSTEMS, BELOW GRADE TANKS, SUMPS AND OTHER ALTERNATIVE METHODS RELATED TO THE FOREGOING AND AMENDING OTHER RULES TO CONFORMING CHANGES, STATEWIDE.

CASE NO. 14784

APPLICATION OF THE INDEPENDENT PETROLEUM ASSOCIATION OF NEW MEXICO FOR AMENDMENT OF CERTAIN PROVISIONS OF TITLE 19, CHAPTER 15 OF THE NEW MEXICO ADMINISTRATIVE CODE CONCERNING PITS, CLOSED-LOOP SYSTEMS, BELOW GRADE TANKS, SUMPS AND OTHER ALTERNATIVE METHODS RELATED TO THE FOREGOING AND AMENDING OTHER RULES TO CONFORMING CHANGES, STATEWIDE.

CASE NO. 14785

AFFIDAVIT OF NOTICE

My name is Theresa Duran-Saenz, and I am a Legal Assistant with the Energy, Minerals and Natural Resources Department. I hereby certify that notices of Cases 14784 and 14785 were given as follows:

1. On March 30, 2012, the Oil Conservation Commission issued a notice for hearing in Case Nos. 14784 & 14785 to be conducted on May 14-18, 2012 for the purpose of amending 19.15.17 NMAC to (i) revise the permitting and registration requirements for permanent pits, temporary pits and below grade tanks; (ii) eliminate the permitting, design, construction and operational requirements for closed-loop systems while requiring that drying pads be designed and constructed to prevent contamination of water; for sumps used to collect liquids from cuttings; and for berms constructed to prevent run-on; (iii) revise the siting, design, construction, operation, closure and site reclamation provisions for temporary pits, permanent pits, drying pads, below grade tanks and tanks associated with closed-loop systems, (iv) authorize standardized plans for pit construction, closure and other matters; (v) adopt a definition for "low chloride" drilling fluids and the establishment of siting, closure and remediation requirements for temporary pits based on the chloride concentration in the waste and the distance between the waste and ground water or a flowing water course; (vi) authorize and adopt requirements for the permitting, siting, design, construction, operation and closure for "multi-well fluid management pits"; (vii) revise the rules governing the testing and removal of below grade tanks; (viii) revise the rules governing onsite disposal in pits and trenches; (ix) revise the rules governing releases, waste testing and excavation and the concentration of wastes disposed in temporary pits or burial trenches; (x) revise the requirements for remediation and site reclamation including contouring and re-vegetation; (xi) revise the rules governing variances and exceptions to these rules to provide for their approval by the appropriate division district office pursuant to procedures set out in the proposed amendments; (xii) revise and adopt rules and

procedures set out in the proposed amendments; (xiii) revise and adopt rules and procedures governing the Oil Conservation Division's notice, processing and approval of applications filed pursuant to these rules, (xiv) revise the rules governing the transfer of a permit; and (xv) otherwise change the Commission's requirements concerning permitting, design, construction, operation and closure of pits and below grade tanks, operation of sumps and other alternative methods that may be proposed for use in lieu of pits or below grade tanks used in oil and gas operations.

2. 19.15.3.9(A)(1) NMAC requires that the notice be published one time in a newspaper of general circulation in the state, no less than 20 days prior to the scheduled hearing date. The proposed amendments in Cases 14784 and 14785 affect the state of New Mexico.

- The Albuquerque Journal is a newspaper of general circulation in New Mexico. *Exhibit 1.a* is a copy of the publication from the Albuquerque Journal, showing publication of the Notice on April 20, 2012.

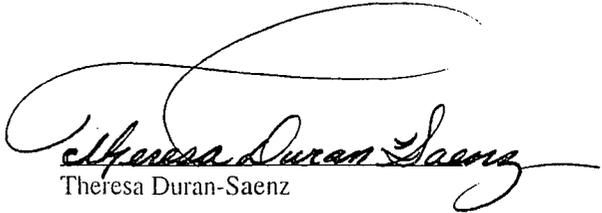
3. 19.15.3.9.A(2) NMAC requires that the notice be published on the applicable Oil Conservation Commission (OCC) docket and that the clerk send the docket by regular or electronic mail not less than 20 days prior to the hearing to all who have requested such notice. The docket containing the notice was posted on April 20, 2012 and sent that day by electronic mail to those individuals who requested such notice, and to those individuals who requested notice of rulemaking. See *Exhibit 1.b*, attached.

4. 19.15.3.9.A(3) NMAC requires that the notice be published one time in the New Mexico Register, with the publication date not less than 10 business days prior to the scheduled hearing date. The Notice was published in the New Mexico Register on April 30, 2012. See *Exhibit 1.c*, attached.

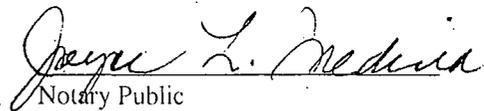
5. 19.15.3.9.A(4) NMAC requires that the notice be published by posting on the OCD's website not less than 20 days prior to the scheduled hearing date. The Notice was scanned and posted on April 2, 2012. See *Exhibit 1.d*, attached.

6. Section 14-4A-4(A), NMSA 1978 provides that prior to the adoption of a proposed rule that may have an adverse effect on small business, an agency shall provide a copy of the proposed rule to the commission at the same time as persons who have requested advance notice of rulemaking. On April 23, 2012, a letter of the proposed rulemaking was sent via electronic mail to the Small Business Regulatory Commission. See *Exhibit 1.e*, attached.

This concludes my affidavit.

  
Theresa Duran-Saenz

SUBSCRIBED AND SWORN to before me this 2<sup>nd</sup> day of May 2012.

  
Notary Public

My Commission Expires:

12/31/15

**Published in the Albuquerque Journal on Friday April 20, 2012**

STATE OF NEW MEXICO ENERGY, MINERAL AND NATURAL RESOURCES  
 DEPARTMENT OIL CONSERVATION COMMISSION SANTA FE, NEW MEXICO The State of New Mexico, through its Oil Conservation Commission (Commission), hereby gives notice that the Commission will conduct a public hearing beginning at 9 a.m. on May 14, 2012 through May 18, 2012, in Porter Hall at 1220 South Saint Francis Drive, Santa Fe, New Mexico. If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter or any other form of auxiliary aid or service to attend or participate in the hearing, please contact Ms. Florene Davidson at (505) 476- 3458 or through the New Mexico Relay Network at 1-800-659-1779 by April 27, 2012. Public documents can be provided in various forms. Please contact Ms. Davidson if a summary or other type of form is needed. A preliminary agenda will be available to the public no later than two weeks prior to the meeting. A final Agenda will be available no later than 24 hours preceding the meeting. Members of the public may obtain copies of the agenda by contacting Ms. Davidson at the phone number indicated above. Also, the agenda will be posted on the Oil Conservation Division's website at [www.emnrd.state.nm.us/ocd/](http://www.emnrd.state.nm.us/ocd/). STATE OF NEW MEXICO TO: All named parties and persons having any right, title, interest or claim in the following cases and notice to the public. CASE 14784: APPLICATION OF THE NEW MEXICO OIL AND GAS ASSOCIATION FOR AMENDMENT OF CERTAIN PROVISIONS OF TITLE 19, CHAPTER 15 OF THE NEW MEXICO ADMINISTRATIVE CODE CONCERNING PITS, CLOSED-LOOP SYSTEMS, BELOW GRADE TANKS, SUMPS AND OTHER ALTERNATIVE METHODS RELATED TO THE FOREGOING AND AMENDING OTHER RULES TO CONFORMING CHANGES, STATEWIDE. The New Mexico Oil and Gas Association requests an order amending Commission Rules concerning pits, closed-loop systems, below grade tanks, sumps and other alternative methods related to the foregoing proposed amendments, codified as Part 17 of the Rules of the Oil Conservation Division [19.15.17 NMAC]. The proposed amendments are to (i) revise the permitting and registration requirements for permanent pits, temporary pits and below grade tanks; (ii) eliminate the permitting, design, construction and operational requirements for closed-loop systems while requiring that drying pads be designed and constructed to prevent contamination of water; for sumps used to collect liquids from cuttings; and for berms constructed to prevent run-on; (iii) revise the siting, design, construction, operation, closure and site reclamation provisions for temporary pits, permanent pits, drying pads, below grade tanks and tanks associated with closed-loop systems, (iv) authorize standardized plans for pit construction, closure and other matters; (v) adopt a definition for "low chloride" drilling fluids and the establishment of siting, closure and remediation requirements for temporary pits based on the chloride concentration in the waste and the distance between the waste and ground water or a flowing water course; (vi) authorize and adopt requirements for the permitting, siting, design, construction, operation and closure for "multi-well fluid management pits"; (vii) revise the rules governing the testing and removal of below grade tanks; (viii) revise the rules governing onsite disposal in pits and trenches; (ix) revise the rules governing releases, waste testing and excavation and the concentration of wastes disposed in temporary pits or burial trenches; (x) revise the requirements for remediation and site reclamation including contouring and re-vegetation; (xi) revise the rules governing variances and exceptions to these rules to provide for their approval by the appropriate division district office pursuant to procedures set out in the proposed amendments; (xii) revise and adopt rules and procedures set out in the proposed amendments; (xiii) revise and adopt rules and procedures governing the Oil Conservation Division's

notice, processing and approval of applications filed pursuant to these rules, (xiv) revise the rules governing transfer of a permit; and (xv) otherwise change the Commission's requirements concerning permitting, design, construction, operation and closure of pits and below grade tanks, operation of sumps and other alternative methods that may be proposed for use in lieu of pits or below grade tanks used in oil and gas operations. Copies of the text of the proposed amendments are available from the Oil Conservation Division's Administrator, Florene Davidson at (505) 476-3458 or from the Division's website at <http://www.emnrd.state.nm.us/ocd/Rules.htm>. Modifications to the proposed amendments (six copies) conforming to the requirements of 19.15.3.11 NMAC must be received by the Division no later than 5:00 p.m. on April 27, 2012. Persons intending to provide written comments on the proposed rule change must submit their written comments no later than 5:00 p.m. on May 4, 2012 to the Division's Administrator. Persons intending to offer technical testimony or cross-examine witnesses at the hearing must file a Pre-hearing statement (six copies) conforming to the requirements of 19.15.3.11 NMAC, including six copies of all exhibits the person will offer in evidence at the hearing, no later than 5:00 p.m. on May 4, 2012. Modifications, written comments and Pre-hearing statements may be hand-delivered or mailed to Ms. Davidson at 1220 South Saint Francis Drive, Santa Fe, New Mexico 87505 or may be faxed to Ms. Davidson at (505) 476-3462.

**CASE 14785: APPLICATION OF THE INDEPENDENT PETROLEUM ASSOCIATION OF NEW MEXICO FOR AMENDMENT OF CERTAIN PROVISIONS OF TITLE 19, CHAPTER 15 OF THE NEW MEXICO ADMINISTRATIVE CODE CONCERNING PITS, CLOSED-LOOP SYSTEMS, BELOW GRADE TANKS, SUMPS AND OTHER ALTERNATIVE METHODS RELATED TO THE FOREGOING AND AMENDING OTHER RULES TO CONFORMING CHANGES, STATEWIDE.** The Independent Petroleum Association of New Mexico requests an order amending Commission Rules concerning pits, closed-loop systems, below grade tanks, sumps and other alternative methods related to the foregoing proposed amendments, codified as Part 17 of the Rules of the Oil Conservation Division [19.15.17 NMAC]. The proposed amendments are to (i) revise the permitting and registration requirements for permanent pits, temporary pits and below grade tanks; (ii) eliminate the permitting, design, construction and operational requirements for closed-loop systems while requiring that drying pads be designed and constructed to prevent contamination of water; for sumps used to collect liquids from cuttings; and for berms constructed to prevent run-on; (iii) revise the siting, design, construction, operation, closure and site reclamation provisions for temporary pits, permanent pits, drying pads, below grade tanks and tanks associated with closed-loop systems, (iv) authorize standardized plans for pit construction, closure and other matters; (v) adopt a definition for "low chloride" drilling fluids and the establishment of siting, closure and remediation requirements for temporary pits based on the chloride concentration in the waste and the distance between the waste and ground water or a flowing water course; (vi) authorize and adopt requirements for the permitting, siting, design, construction, operation and closure for "multi-well fluid management pits"; (vii) revise the rules governing the testing and removal of below grade tanks; (viii) revise the rules governing onsite disposal in pits and trenches; (ix) revise the rules governing releases, waste testing and excavation and the concentration of wastes disposed in temporary pits or burial trenches; (x) revise the requirements for remediation and site reclamation including contouring and re-vegetation; (xi) revise the rules governing variances and exceptions to these rules to provide for their approval by the appropriate division district office pursuant to procedures set out in the proposed amendments; (xii) revise and adopt rules and procedures set out in the proposed amendments; (xiii) revise and adopt rules and procedures governing the Oil Conservation Division's notice, processing and approval of applications filed pursuant to these rules, (xiv) revise the rules governing the transfer of a permit; and (xv) otherwise change the Commission's requirements concerning permitting, design, construction, operation and closure of pits and below grade tanks, operation of sumps and other alternative methods that may be proposed for use in lieu of pits or below grade tanks used in oil and gas operations. Copies of the text of the proposed amendments are available from the Oil Conservation Division's Administrator, Florene Davidson at

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**PRELIMINARY DOCKET: COMMISSION MEETING – MONDAY – MAY 14-18, 2012**

9:00 A.M. – Porter Hall  
1220 South St. Francis  
Santa Fe, New Mexico

Land Commissioner, Ray Powell, may designate Scott Dawson for this meeting.

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**Notice:** The minutes of the April 19, 2012 Commission Meeting will be adopted.

**Notice:** During this meeting, the Commission may conduct a closed executive session during which it will deliberate in connection with an administrative adjudicatory proceeding pending before the Commission or consult with Commission counsel under the attorney-client privilege concerning threatened or pending litigation in which the Commission is or may become a participant.

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Final action may be taken in the following:

Motion for Leave to File Application for Hearing De Novo filed by Nearburg Producing Company LLC, through its counsel, on March 26, 2012.

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***CASE 14784: APPLICATION OF THE NEW MEXICO OIL AND GAS ASSOCIATION FOR AMENDMENT OF CERTAIN PROVISIONS OF TITLE 19, CHAPTER 15 OF THE NEW MEXICO ADMINISTRATIVE CODE CONCERNING PITS, CLOSED-LOOP SYSTEMS, BELOW GRADE TANKS, SUMPS AND OTHER ALTERNATIVE METHODS RELATED TO THE FOREGOING AND AMENDING OTHER RULES TO CONFORMING CHANGES, STATEWIDE.*** The New Mexico Oil and Gas Association requests an order amending Commission Rules concerning pits, closed-loop systems, below grade tanks, sumps and other alternative methods related to the foregoing proposed amendments, codified as Part 17 of the Rules of the Oil Conservation Division [19.15.17 NMAC]. The proposed amendments are to (i) revise the permitting and registration requirements for permanent pits, temporary pits and below grade tanks; (ii) eliminate the permitting, design, construction and operational requirements for closed-loop systems while requiring that drying pads be designed and constructed to prevent contamination of water; for sumps used to collect liquids from cuttings; and for berms constructed to prevent run-on; (iii) revise the siting, design, construction, operation, closure and site reclamation provisions for temporary pits, permanent pits, drying pads, below grade tanks and tanks associated with closed-loop systems, (iv) authorize standardized plans for pit construction, closure and other matters; (v) adopt a definition for “low chloride” drilling fluids and the establishment of siting, closure and remediation requirements for temporary pits based on the chloride concentration in the waste and the distance between the waste and ground water or a flowing water course; (vi) authorize and adopt requirements for the permitting, siting, design, construction, operation and closure for “multi-well fluid management pits”; (vii) revise the rules governing the testing and removal of below grade tanks; (viii) revise the rules governing onsite disposal in pits and trenches; (ix) revise the rules governing releases, waste testing and excavation and the concentration of wastes disposed in temporary pits or burial trenches; (x) revise the requirements for remediation and site reclamation including contouring and re-vegetation; (xi) revise the rules governing variances and exceptions to these rules to provide for their approval by the appropriate division district office pursuant to procedures set out in the proposed amendments; (xii) revise and adopt rules and procedures set out in the proposed amendments; (xiii) revise and adopt rules and procedures governing the Oil Conservation Division’s notice, processing and approval of applications filed pursuant to these rules, (xiv) revise the rules governing transfer of a permit; and (xv) otherwise change the Commission’s requirements concerning permitting, design, construction, operation and closure of pits and below grade tanks, operation of sumps and other alternative methods that may be proposed for use in lieu of pits or below grade tanks used in oil and gas operations. Copies of the text of the proposed amendments are available from the Oil Conservation Division’s Administrator, Florene Davidson at (505) 476-3458 or from the Division’s website at <http://www.cmnrd.state.nm.us/ocd/Rules.htm>. Modifications to the proposed amendments (six copies) conforming to the requirements of 19.15.3.11 NMAC must be received by the Division no later than 5:00 p.m. on April 27, 2012. Persons intending to provide written comments on the proposed rule change must submit their written comments no later than 5:00 p.m. on May 4, 2012 to the Division’s Administrator. Persons intending to offer technical testimony or cross-examine witnesses at the hearing must file a Pre-hearing statement (six copies) conforming to the requirements of 19.15.3.11 NMAC, including six copies of all exhibits the person will offer in evidence at the hearing, no later than 5:00 p.m. on May 4, 2012. Modifications, written comments and Pre-hearing statements may be hand-delivered or mailed to Ms. Davidson at 1220 South Saint Francis Drive, Santa Fe, New Mexico 87505 or may be faxed to Ms. Davidson at (505) 476-3462.

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*Commission Meeting – May 14-18, 2012*

*Docket No. 14-12*

*Page 2*

constructed to prevent contamination of water; for sumps used to collect liquids from cuttings; and for berms constructed to prevent run-on; (iii) revise the siting, design, construction, operation, closure and site reclamation provisions for temporary pits, permanent pits, drying pads, below grade tanks and tanks associated with closed-loop systems, (iv) authorize standardized plans for pit construction, closure and other matters; (v) adopt a definition for “low chloride” drilling fluids and the establishment of siting, closure and remediation requirements for temporary pits based on the chloride concentration in the waste and the distance between the waste and ground water or a flowing water course; (vi) authorize and adopt requirements for the permitting, siting, design, construction, operation and closure for “multi-well fluid management pits”; (vii) revise the rules governing the testing and removal of below grade tanks; (viii) revise the rules governing onsite disposal in pits and trenches; (ix) revise the rules governing releases, waste testing and excavation and the concentration of wastes disposed in temporary pits or burial trenches; (x) revise the requirements for remediation and site reclamation including contouring and re-vegetation; (xi) revise the rules governing variances and exceptions to these rules to provide for their approval by the appropriate division district office pursuant to procedures set out in the proposed amendments; (xii) revise and adopt rules and procedures set out in the proposed amendments; (xiii) revise and adopt rules and procedures governing the Oil Conservation Division’s notice, processing and approval of applications filed pursuant to these rules, (xiv) revise the rules governing the transfer of a permit; and (xv) otherwise change the Commission’s requirements concerning permitting, design, construction, operation and closure of pits and below grade tanks, operation of sumps and other alternative methods that may be proposed for use in lieu of pits or below grade tanks used in oil and gas operations. Copies of the text of the proposed amendments are available from the Oil Conservation Division’s Administrator, Florene Davidson at (505) 476-3458 or from the Division’s website at <http://www.emnrd.state.nm.us/ocd/Rules.htm>. Modifications to the proposed amendments (six copies) conforming to the requirements of 19.15.3.11 NMAC must be received by the Division no later than 5:00 p.m. on April 27, 2012. Persons intending to provide written comments on the proposed rule change must submit their written comments no later than 5:00 p.m. on May 4, 2012 to the Division’s Administrator. Persons intending to offer technical testimony or cross-examine witnesses at the hearing must file a Pre-hearing statement (six copies) conforming to the requirements of 19.15.3.11 NMAC, including six copies of all exhibits the person will offer in evidence at the hearing, no later than 5:00 p.m. on May 4, 2012. Modifications, written comments and Pre-hearing statements may be hand-delivered or mailed to Ms. Davidson at 1220 South Saint Francis Drive, Santa Fe, New Mexico 87505 or may be faxed to Ms. Davidson at (505) 476-3462.

New Mexico Register / Volume XXIII, Number 8 / April 30, 2012

**STATE OF NEW MEXICO  
ENERGY, MINERAL AND NATURAL RESOURCES DEPARTMENT  
OIL CONSERVATION COMMISSION  
SANTA FE, NEW MEXICO**

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**STATE OF NEW MEXICO TO:**

**All named parties and persons  
having any right, title, interest  
or claim in the following cases  
and notice to the public.**

**Case No.14784: APPLICATION OF THE NEW MEXICO OIL AND GAS ASSOCIATION FOR AMENDMENT OF CERTAIN PROVISIONS OF TITLE 19, CHAPTER 15 OF THE NEW MEXICO ADMINISTRATIVE CODE CONCERNING PITS, CLOSED-LOOP SYSTEMS, BELOW GRADE TANKS, SUMPS AND OTHER ALTERNATIVE METHODS RELATED TO THE FOREGOING AND AMENDING OTHER RULES TO CONFORMING CHANGES, STATEWIDE.**

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*Case Nos. 14784 & 14785*

*OCD Exhibit 1.c*

**Case No.14785: APPLICATION OF THE INDEPENDENT PETROLEUM ASSOCIATION OF NEW MEXICO FOR AMENDMENT OF CERTAIN PROVISIONS OF TITLE 19, CHAPTER 15 OF THE NEW MEXICO ADMINISTRATIVE CODE CONCERNING PITS, CLOSED-LOOP SYSTEMS, BELOW GRADE TANKS, SUMPS AND OTHER ALTERNATIVE METHODS RELATED TO THE FOREGOING AND AMENDING OTHER RULES TO CONFORMING CHANGES, STATEWIDE.**

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Given under the seal of the State of New Mexico Oil Conservation Commission at Santa Fe, New Mexico on this 30<sup>th</sup> day of March, 2012.

STATE OF NEW MEXICO  
OIL CONSERVATION COMMISSION

Jami Bailey  
Oil Conservation Commission Chair

Internet Explorer - http://www.ernrd.state.nm.us/ocd/rules.htm

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**Proposed Rule Changes:**

**PITS, CLOSED-LOOP SYSTEMS, BELOW-GRADE TANKS & SUMPS**

**Title 19, Chapter 15, Parts 17**  
 Application - New Mexico Oil & Gas Association (posted 10-3-11)

**Title 19, Chapter 15, Part 17; Title 19, Chapter 15, Part 39.8.B**  
 Application - Independent Petroleum Association (posted 11-30-11)

Preliminary Docket (posted 4-20-12)  
 (New) Notice of Hearing (posted 4-2-12)  
 Pre-hearing Conference Docket (posted 1-19-12)  
 Request for Pre-hearing Conference (posted 1-19-12)  
 Order of Continuance (posted 1-19-12)  
 Petition for Continuance (posted 1-17-12)  
 Joint Motion for Continuance (posted 1-13-12)  
 Final Docket (posted 1-20-12)  
 Preliminary Docket (posted 12-30-11)  
 Notice of Hearing (posted 12-16-11)

**Entry of Appearance:**  
 Hearing (posted 5-1-12)  
 NM Wilderness Alliance (posted 1-13-12)  
 OGAP OGAP (posted 1-17-12)  
 SACD case 14784 (posted 1-18-12)  
 OGD case 14785 (posted 1-18-12)

**Modifications:**

**OCD**  
 Notice (posted 4-30-12)  
 Cases 14784 and 14785 (posted 4-30-12)  
 Case 14784 (posted 1-9-12)  
 Case 14785 (posted 1-9-12)  
 Exhibit A (posted 1-9-12)

**NMOGA**  
 Attachment A (posted 4-16-12)

**JPANN**  
 Cover (posted 4-30-12)  
 Attachment A (posted 4-30-12)  
 Attachment B (posted 4-30-12)

Comments

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STATE OF NEW MEXICO  
ENERGY, MINERAL AND NATURAL RESOURCES DEPARTMENT  
OIL CONSERVATION COMMISSION  
SANTA FE, NEW MEXICO

The State of New Mexico, through its Oil Conservation Commission (Commission), hereby gives notice that the Commission will conduct a public hearing beginning at 9 a.m. on May 14, 2012 through May 18, 2012, in Porter Hall at 1220 South Saint Francis Drive, Santa Fe, New Mexico. If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter or any other form of auxiliary aid or service to attend or participate in the hearing, please contact Ms. Florene Davidson at (505) 476- 3458 or through the New Mexico Relay Network at 1-800-659-1779 by April 27, 2012. Public documents can be provided in various forms. Please contact Ms. Davidson if a summary or other type of form is needed. A preliminary agenda will be available to the public no later than two weeks prior to the meeting. A final Agenda will be available no later than 24 hours preceding the meeting. Members of the public may obtain copies of the agenda by contacting Ms. Davidson at the phone number indicated above. Also, the agenda will be posted on the Oil Conservation Division's website at [www.emnrd.state.nm.us/ocd/](http://www.emnrd.state.nm.us/ocd/).

STATE OF NEW MEXICO TO:

All named parties and persons  
having any right, title, interest  
or claim in the following cases  
and notice to the public.

Case No.14784: APPLICATION OF THE NEW MEXICO OIL AND GAS ASSOCIATION FOR AMENDMENT OF CERTAIN PROVISIONS OF TITLE 19, CHAPTER 15 OF THE NEW MEXICO ADMINISTRATIVE CODE CONCERNING PITS, CLOSED-LOOP SYSTEMS, BELOW GRADE TANKS, SUMPS AND OTHER ALTERNATIVE METHODS RELATED TO THE FOREGOING AND AMENDING OTHER RULES TO CONFORMING CHANGES, STATEWIDE. The New Mexico Oil and Gas Association requests an order amending Commission Rules concerning pits, closed-loop systems, below grade tanks, sumps and other alternative methods related to the foregoing proposed amendments, codified as Part 17 of the Rules of the Oil Conservation Division [19.15.17 NMAC]. The proposed amendments are to (i) revise the permitting and registration requirements for permanent pits, temporary pits and below grade tanks; (ii) eliminate the permitting, design, construction and operational requirements for closed-loop systems while requiring that drying pads be designed and constructed to prevent contamination of water; for sumps used to collect liquids from cuttings; and for berms constructed to prevent run-on; (iii) revise the siting, design, construction, operation, closure and site reclamation provisions for temporary pits, permanent pits, drying pads, below grade tanks and tanks associated with closed-loop systems, (iv) authorize standardized plans for pit construction, closure and other matters; (v) adopt a definition for "low chloride" drilling fluids and the establishment of siting, closure and remediation requirements for temporary pits based on the chloride concentration in the waste and the distance between the waste and ground water or a flowing

water course; (vi) authorize and adopt requirements for the permitting, siting, design, construction, operation and closure for "multi-well fluid management pits"; (vii) revise the rules governing the testing and removal of below grade tanks; (viii) revise the rules governing onsite disposal in pits and trenches; (ix) revise the rules governing releases, waste testing and excavation and the concentration of wastes disposed in temporary pits or burial trenches; (x) revise the requirements for remediation and site reclamation including contouring and re-vegetation; (xi) revise the rules governing variances and exceptions to these rules to provide for their approval by the appropriate division district office pursuant to procedures set out in the proposed amendments; (xii) revise and adopt rules and procedures set out in the proposed amendments; (xiii) revise and adopt rules and procedures governing the Oil Conservation Division's notice, processing and approval of applications filed pursuant to these rules, (xiv) revise the rules governing transfer of a permit; and (xv) otherwise change the Commission's requirements concerning permitting, design, construction, operation and closure of pits and below grade tanks, operation of sumps and other alternative methods that may be proposed for use in lieu of pits or below grade tanks used in oil and gas operations.

Copies of the text of the proposed amendments are available from the Oil Conservation Division's Administrator, Florene Davidson at (505) 476-3458 or from the Division's website at <http://www.emnrd.state.nm.us/ocd/Rules.htm>. Modifications to the proposed amendments (six copies) conforming to the requirements of 19.15.3.11 NMAC must be received by the Division no later than 5:00 p.m. on April 27, 2012. Persons intending to provide written comments on the proposed rule change must submit their written comments no later than 5:00 p.m. on May 4, 2012 to the Division's Administrator. Persons intending to offer technical testimony or cross-examine witnesses at the hearing must file a Pre-hearing statement (six copies) conforming to the requirements of 19.15.3.11 NMAC, including six copies of all exhibits the person will offer in evidence at the hearing, no later than 5:00 p.m. on May 4, 2012. Modifications, written comments and Pre-hearing statements may be hand-delivered or mailed to Ms. Davidson at 1220 South Saint Francis Drive, Santa Fe, New Mexico 87505 or may be faxed to Ms. Davidson at (505) 476-3462.

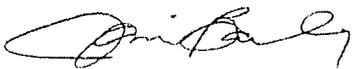
**Case No.14785:** APPLICATION OF THE INDEPENDENT PETROLEUM ASSOCIATION OF NEW MEXICO FOR AMENDMENT OF CERTAIN PROVISIONS OF TITLE 19, CHAPTER 15 OF THE NEW MEXICO ADMINISTRATIVE CODE CONCERNING PITS, CLOSED-LOOP SYSTEMS, BELOW GRADE TANKS, SUMPS AND OTHER ALTERNATIVE METHODS RELATED TO THE FOREGOING AND AMENDING OTHER RULES TO CONFORMING CHANGES, STATEWIDE. The Independent Petroleum Association of New Mexico requests an order amending Commission Rules concerning pits, closed-loop systems, below grade tanks, sumps and other alternative methods related to the foregoing proposed amendments, codified as Part 17 of the Rules of the Oil Conservation Division [19.15.17 NMAC]. The proposed amendments are to (i) revise the permitting and registration requirements for permanent pits, temporary pits and below grade tanks; (ii) eliminate the permitting, design, construction and operational requirements for closed-loop systems while requiring that drying pads be designed and constructed to prevent contamination of water; for sumps used to collect liquids from cuttings; and for berms constructed to prevent run-on; (iii) revise the siting, design, construction, operation, closure and site reclamation provisions for temporary pits, permanent pits, drying pads, below grade tanks and tanks associated with closed-loop systems, (iv) authorize standardized plans for pit construction, closure and other matters; (v) adopt a definition for

“low chloride” drilling fluids and the establishment of siting, closure and remediation requirements for temporary pits based on the chloride concentration in the waste and the distance between the waste and ground water or a flowing water course; (vi) authorize and adopt requirements for the permitting, siting, design, construction, operation and closure for “multi-well fluid management pits”; (vii) revise the rules governing the testing and removal of below grade tanks; (viii) revise the rules governing onsite disposal in pits and trenches; (ix) revise the rules governing releases, waste testing and excavation and the concentration of wastes disposed in temporary pits or burial trenches; (x) revise the requirements for remediation and site reclamation including contouring and re-vegetation; (xi) revise the rules governing variances and exceptions to these rules to provide for their approval by the appropriate division district office pursuant to procedures set out in the proposed amendments; (xii) revise and adopt rules and procedures set out in the proposed amendments; (xiii) revise and adopt rules and procedures governing the Oil Conservation Division’s notice, processing and approval of applications filed pursuant to these rules, (xiv) revise the rules governing the transfer of a permit; and (xv) otherwise change the Commission’s requirements concerning permitting, design, construction, operation and closure of pits and below grade tanks, operation of sumps and other alternative methods that may be proposed for use in lieu of pits or below grade tanks used in oil and gas operations.

Copies of the text of the proposed amendments are available from the Oil Conservation Division’s Administrator, Florene Davidson at (505) 476-3458 or from the Division’s website at <http://www.emnrd.state.nm.us/ocd/Rules.htm>. Modifications to the proposed amendments (six copies) conforming to the requirements of 19.15.3.11 NMAC must be received by the Division no later than 5:00 p.m. on April 27, 2012. Persons intending to provide written comments on the proposed rule change must submit their written comments no later than 5:00 p.m. on May 4, 2012 to the Division’s Administrator. Persons intending to offer technical testimony or cross-examine witnesses at the hearing must file a Pre-hearing statement (six copies) conforming to the requirements of 19.15.3.11 NMAC, including six copies of all exhibits the person will offer in evidence at the hearing, no later than 5:00 p.m. on May 4, 2012. Modifications, written comments and Pre-hearing statements may be hand-delivered or mailed to Ms. Davidson at 1220 South Saint Francis Drive, Santa Fe, New Mexico 87505 or may be faxed to Ms. Davidson at (505) 476-3462.

Given under the seal of the State of New Mexico Oil Conservation Commission at Santa Fe, New Mexico on this 30<sup>th</sup> day of March, 2012.

STATE OF NEW MEXICO  
OIL CONSERVATION COMMISSION



Jami Bailey  
Oil Conservation Commission Chair

**From:** [Gerholt, Gabrielle, EMNRD](#)  
**To:** [Jackson, Wade, EDD](#)  
**Cc:** [Duran-Saenz, Theresa, EMNRD](#)  
**Subject:** Notice of OCC Rulemaking - Pit Rule  
**Date:** Monday, April 23, 2012 4:37:13 PM  
**Attachments:** [2012\\_0423 Notice to SBRC.docx](#)

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Dear Mr. Jackson,

Pursuant to NMSA 14-4A-4, the Oil Conservation Division is providing your agency with notice of rulemaking May 14 through May 18, 2012. If you have any questions, please feel free to contact me.

Sincerely,

Gabrielle A. Gerholt -  
Assistant General Counsel  
Oil Conservation Division  
505.476.3451

**ATTORNEY-CLIENT PRIVILEGED COMMUNICATION**

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State of New Mexico  
Energy, Minerals and Natural Resources Department

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**Susana Martinez**  
Governor

**John Bemis**  
Cabinet Secretary

**Brett F. Woods, Ph.D.**  
Deputy Cabinet Secretary

**Jami Bailey**  
Division Director  
Oil Conservation Division



April 23, 2012

Small Business Regulatory Advisory Commission  
Economic Development Department  
Attn: Wade Jackson, General Counsel  
Joseph M. Montoya Building  
1100 S. St. Francis Drive, Suite 1060  
Santa Fe, NM 87505

Via electronic mail

Re: Applications of the New Mexico Oil and Gas Association and Independent Petroleum Association of New Mexico for Rule Amendment

Dear Commissioners:

The New Mexico Oil and Gas Association (NMOGA) has filed an application to amend 19.15.17 NMAC, statewide and the Independent Petroleum Association of New Mexico (IPANM) has also filed an application proposing to amend 19.15.17 NMAC and 19.15.39.8.B NMAC, statewide.

The intended effect of the proposed rule changes is to adopt the following new rules for pits, closed-loop systems, below grade tanks and sumps:

1. revise the permitting and registration requirements for permanent pits, temporary pits and below grade tanks;
2. eliminate the permitting, design, construction and operational requirements for closed-loop systems while requiring that drying pads be designed and constructed to prevent contamination of water; for sumps used to collect liquids from cuttings; and for berms constructed to prevent run-on;
3. revise the siting, design, construction, operation, closure and site reclamation provisions for temporary pits, permanent pits, drying pads, below grade tanks and tanks associated with closed-loop systems;
4. authorize standardized plans for pit construction, closure and other matters;
5. adopt a definition for "low chloride" drilling fluids and the establishment of siting, closure and remediation requirements for temporary pits based on the chloride concentration in the waste and the distance between the waste and ground water or a flowing water course;
6. authorize and adopt requirements for the permitting, siting, design, construction, operation and closure for "multi-well fluid management pits";
7. revise the rules governing the testing and removal of below grade tanks;
8. revise the rules governing onsite disposal in pits and trenches;
9. revise the rules governing releases, waste testing and excavation and the concentration of wastes disposed in temporary pits or burial trenches;
10. revise the requirements for remediation and site reclamation including contouring and re-vegetation;
11. revise the rules governing variances and exceptions to these rules to provide for their approval by the appropriate division district office pursuant to procedures set out in the proposed amendments;
12. revise and adopt rules and procedures set out in the proposed amendments;
13. revise and adopt rules and procedures governing the Oil Conservation Division's notice, processing and approval of applications filed pursuant to these rules,

April 23, 2012

Page 2

14. revise the rules governing transfer of a permit; and
15. otherwise change the Commission's requirements concerning permitting, design, construction, operation and closure of pits and below grade tanks, operation of sumps and other alternative methods that may be proposed for use in lieu of pits or below grade tanks used in oil and gas operations.

In addition, IPANM's application intends to allow pits to be located in Sierra and Otero Counties.

The Oil Conservation Division does not believe that these rules will adversely affect small business. However, in order to insure compliance with the Small Business Regulatory Relief Act, this notice is provided pursuant to NMSA 1978, Section 14-4A-4.

The Oil Conservation Commission has scheduled a hearing on the OCD's application for **May 14 through May 18, 2012** in Porter Hall at the Wendell Chino Building, 1220 S. St. Francis Drive, in Santa Fe. If you have any questions, please do not hesitate to call.

Sincerely,

Gabrielle A. Gerholt  
OCD Attorney  
(505) 476-3451